IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

RSA No.508 of 2006

Decided on:23-11-2006.

Muni Lal **…Appellant.**

VERSUS

Mool Chand **…Respondent.**

Coram

The Hon'ble Mr.Justice Surjit Singh, Judge.

Whether approved for reporting?

For the appellant: **Mr.G.D.Verma, Sr.Advocate with Mr.B.C.Verma, Advocate.**

For the respondent:

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. Appellant / plaintiff filed a suit for issuance of permanent prohibitory injunction as also mandatory injunction, against respondent Mool Chand, alleging that there existed a passage through a portion of Khasra No.145, belonging to defendant, and that the plaintiff had been using that passage since times immemorial and had acquired right of easement by prescription. He alleged that some obstruction had been caused by the respondent / defendant in that passage. So he sued him seeking relief of permanent prohibitory injunction restraining him from causing any obstruction in the passage and also for directing him to remove the obstruction already put up.

Whether the reporters of the local papers maybe allowed to see the judgment?

3. Respondent / defendant contested the suit and denied that there existed any passage. The two Courts below have returned concurrent finding on proper appreciation of the evidence, both oral and documentary, that the passage had not been in existence at least from 1989 to 2002. Both the Courts have held that this is apparent even from the statement of the plaintiff himself, made by him in a previous suit, copy whereof is Ext.D-2.

4. In view of the concurrent finding by the two Courts below and which finding is only not shown to be perverse, but is based on proper appreciation of the evidence, I do not think any substantial question of law arises, so the appeal is dismissed.

November 23, 2006 **(Surjit Singh)**
(soni) **Judge.**